

EXHIBIT A

P. 026

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Code of Civil Procedure §§ 412.23, 455
Case No. 12-123456789

EXHIBIT B

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CASE NUMBER:
RG18894308

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

10 IRMA FRAUSTO, individually, and on behalf of Case No.:
all others similarly situated,

11 Plaintiff,

12 vs.

13 BANK OF AMERICA, NATIONAL
14 ASSOCIATION, a business entity, form
unknown; and DOES 1 through 10, inclusive,

15 Defendants

CLASS ACTION COMPLAINT:

1. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
2. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
3. Failure to Authorize and Permit Rest Periods [Cal. Lab. Code §§ 226.7];
4. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
5. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
6. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

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1 Plaintiff Irma Frausto ("Plaintiff"), based upon facts that either have evidentiary support
2 or are likely to have evidentiary support after a reasonable opportunity for further investigation
3 and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff Irma Frausto brings this action against Defendant Bank of America,
6 National Association ("Bank of America"), and Does 1 through 10 (Bank of America and Does 1
7 through 10 are collectively referred to as "Defendants") for California Labor Code violations and
8 unfair business practices stemming from Defendants' failure to pay overtime wages, failure to
9 provide meal periods, failure to pay meal period premium wages correctly, failure to authorize
10 and permit rest periods, failure to timely pay all wages to terminated employees, and failure to
11 furnish accurate wage statements.

12 2. Plaintiff brings the First through Sixth Causes of Action individually and as a class
13 action on behalf of herself and certain current and former employees of Defendants (hereinafter
14 collectively referred to as the "Class" or "Class Members," and defined more fully below). The
15 Class consists of Plaintiff and all other persons who have been employed by any Defendant in
16 California as a non-exempt employee during the statute of limitations period applicable to the
17 claims pleaded here.

18 3. Defendants own/owned and operate/operated an industry, business, and
19 establishment within the State of California, including Alameda County. As such, and based
20 upon all the facts and circumstances incident to Defendants' business in California, Defendants
21 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
22 Commission ("IWC"), and the California Business & Professions Code.

23 4. Despite these requirements, throughout the statutory period Defendants
24 maintained a systematic, company-wide policy and practice of:

25 (a) Failing to pay employees for all overtime wages in compliance with the
26 California Labor Code and IWC Wage Orders;

27 (b) Failing to provide employees with timely and duty-free meal periods in
28 compliance with the California Labor Code and IWC Wage Orders, and

1 failing to pay an additional hour's pay at the correct hourly rate for each
2 workday a meal period violation occurred;

3 (c) Failing to authorize and permit employees to take timely and duty-free rest
4 periods in compliance with the California Labor Code and IWC Wage
5 Orders, and failing to pay an additional hour's pay for each workday a rest
6 period violation occurred;

7 (d) Willfully failing to pay employees all overtime wages, meal period
8 premium wages, and rest period premium wages, due within the time
9 period specified by California law when employment terminates; and

10 (e) Failing to provide employees with accurate, itemized wage statements
11 containing all the information required by the California Labor Code and
12 IWC Wage Orders.

13 5. On information and belief, Defendants, and each of them were on actual and
14 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
15 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
16 willful and deliberate.

17 6. At all relevant times, Defendants were and are legally responsible for all of the
18 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
19 foregoing paragraphs as the employer of Plaintiff and the Class. Further, Defendants are
20 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
21 "respondeat superior".

22 THE PARTIES

23 A. Plaintiff

24 7. Plaintiff Irma Frausto is a California resident that worked for Defendants in Brea,
25 California from approximately September 1999 to August 11, 2017, during which she worked as
26 a Treasury Service Specialist from 2014 to 2017.

27 8. Plaintiff reserves the right to seek leave to amend this complaint to add new
28 plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*

American Savings and Loan Association (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

9. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant Bank of America, National Association is:

- (a) A foreign corporation that has not designated a principal business office in California according to its latest Statement of Information (Foreign Corporation) on file with the California Secretary of State;
- (b) Maintains branches, facilities, and offices from which it transacts business in a variety of locations in Alameda County, and Defendant is otherwise within this Court's jurisdiction for purposes of service of process; and
- (c) The former employer of Plaintiff, and the current and/or former employer of the putative Class. Bank of America, National Association suffered and permitted Plaintiff and the Class to work, and/or controlled their wages, hours, or working conditions.

10. Plaintiff does not know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiff and the Class as alleged herein. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

11. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiff and the Class in the State of California.

12. Plaintiff is informed and believes and thereon alleges that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,

1 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
 2 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
 3 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
 4 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
 5 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted
 6 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
 7 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
 8 abetted the conduct of all other Defendants.

9 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

10 13. Plaintiff Irma Frausto is a California resident that worked for Defendants in Brea,
 11 California from approximately September 1999 to August 11, 2017, during which she worked as
 12 a Treasury Service Specialist from 2014 to 2017. Defendants paid Plaintiff on an hourly basis
 13 and classified her as non-exempt from overtime. During Plaintiff's employment for Defendants,
 14 Defendants typically scheduled Plaintiff to work 5 days in a workweek and at least 8 hours per
 15 day, but there were also times when Plaintiff worked shifts greater than 8 hours in a workday.

16 14. Throughout Plaintiff's employment, Defendants failed to pay Plaintiff the correct
 17 amount of overtime wages, failed to provide Plaintiff with meal periods, failed to pay meal
 18 period premium wages correctly, failed to authorize and permit Plaintiff to take rest periods,
 19 failed to timely pay all final wages to Plaintiff when Defendants terminated her employment, and
 20 failed to furnish accurate wage statements to Plaintiff. As discussed below, Plaintiff's
 21 experience working for Defendants was typical and illustrative.

22 15. Throughout the statutory period, Defendants maintained a policy and practice of
 23 failing to pay Plaintiff and the Class the correct amount of overtime pay in compliance with
 24 California law. Throughout the statutory period, Plaintiff and the Class worked more than 8
 25 hours in a workday and more than 40 hours in a workweek. In addition, Plaintiff and the Class
 26 earned non-discretionary bonuses, such as bonuses based on customer service surveys, and
 27 bonuses based on whether an employee spoke a language other than English. Defendants,
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1 however, failed to include these non-discretionary bonuses earned by Plaintiff and the Class for
2 calculating the regular rate of pay for overtime purposes.

3 16. Throughout the statutory period, Defendants have wrongfully failed to provide
4 Plaintiff and the Class with legally compliant meal periods. Defendants sometimes, but not
5 always, required Plaintiff and the Class to work in excess of five consecutive hours a day without
6 providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours
7 of work, or without compensating Plaintiff and the Class for all meal periods that were not
8 provided by the end of the fifth hour of work or tenth hour of work. On the occasions when
9 Defendants did compensate Plaintiff and the Class for meal periods that were not provided
10 according to California law, meal period premium pay was inadequate because it was based on
11 an hourly rate of pay that did not include all compensation Plaintiff and the Class earned, such as
12 non-discretionary bonuses. On information and belief, Defendants also did not adequately
13 inform Plaintiff and the Class of their right to take a meal period by the end of the fifth hour of
14 work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, on
15 information and belief, Defendants required Plaintiffs and the Class to agree to waive meal
16 periods for shifts greater than five hours but less than six hours long as a condition of
17 employment. Accordingly, Defendants' policy and practice was to not provide meal periods to
18 Plaintiff and the Class in compliance with California law.

19 17. Throughout the statutory period, Defendants have wrongfully failed to authorize
20 and permit Plaintiff and the Class to take legally compliant rest periods. Defendants regularly,
21 but not always, required Plaintiff and the Class to work in excess of four consecutive hours a day
22 without Defendants authorizing and permitting them to take a 10-minute, continuous and
23 uninterrupted, rest period for every four hours of work (or major fraction of four hours), or
24 without compensating Plaintiff and the Class for rest periods that were not authorized or
25 permitted. On information and belief, Defendants did not have adequate policies or practices
26 permitting or authorizing rest periods for Plaintiff and the Class, nor did Defendants have
27 adequate policies or practices regarding the timing of rest periods. Accordingly, Defendants'
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1 policy and practice was to not authorize and permit Plaintiff and the Class to take rest periods in
2 compliance with California law.

3 18. Throughout the statutory period, Defendants willfully failed and refused to timely
4 pay Plaintiff and the Class at the conclusion of their employment all final wages due at
5 termination of employment. For example, Defendants terminated Plaintiff's employment on
6 August 11, 2017 and did not issue Plaintiff her final paycheck on her last day, as required under
7 Labor Code section 202, but instead issued her final paycheck on August 15, 2017, four days
8 late. In addition, Plaintiff's final paycheck did not include payment for all overtime wages, meal
9 period premium wages, and rest period premium wages owed to her by Defendants at the
10 conclusion of her employment. On information and belief, Defendants' failure to timely pay
11 Plaintiff's final wages when her employment terminated was not a single, isolated incident, but
12 was instead consistent with Defendants' policy and practice that applied to Plaintiff and the
13 Class.

14 19. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
15 Class with accurate, itemized wage statements showing all applicable hourly rates, and all gross
16 and net wages earned (including correct wages earned for overtime pay, correct wages for meal
17 periods that were not provided in accordance with California law, and correct wages for rest
18 periods that were not authorized and permitted to take in accordance with California law). As a
19 result of these violations of California Labor Code § 226(a), the Plaintiff and the Class suffered
20 injury because, among other things:

- 21 (a) the violations led them to believe that they were not entitled to be paid
22 overtime wages, meal period premium wages, and rest period premium
23 wages, to which they were entitled, even though they were entitled;
24 (b) the violations led them to believe that they had been paid the overtime,
25 meal period premium, and rest period premium wages, to which they were
26 entitled, even though they had not been;
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- (c) the violations led them to believe they were not entitled to be paid overtime, meal period premium, and rest period premium wages at the correct California rate even though they were;
- (d) the violations led them to believe they had been paid overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;
- (e) the violations hindered them from determining the amounts of overtime, meal period premium, and rest period premium wages owed to them;
- (f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them, computations they would not have to make if the wage statements contained the required accurate information;
- (g) by understating the wages truly due them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;
- (h) the wage statements inaccurately understated the wages, hours, and wages rates to which Plaintiff and the Class were entitled, and Plaintiff and the Class were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiff and the Class are owed the amounts provided for in California Labor Code § 226(e).

CLASS ACTION ALLEGATIONS

20. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

21. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

1 22. The proposed Class consists of and is defined as:

2 All persons who worked for any Defendant in California as a non-exempt
3 employee at any time during the period beginning four years before the filing of
4 the initial complaint in this action and ending when notice to the Class is sent.

5 23. Plaintiff also seeks class certification of the following Sub-Classes:

6 **Meal Period Premium Sub-Class:** All persons who worked for any Defendant
7 in California as a non-exempt employee at any time during the period beginning
8 four years before the filing of the initial complaint in this action and ending
9 when notice to the Class is sent and received from any Defendant payment for a
10 bonus and a missed meal period.

11 **Late Pay Sub-Class:** All persons who worked for any Defendant in California
12 as a non-exempt employee at any time during the period beginning three years
13 before the filing of the initial complaint in this action and ending when notice to
14 the Class is sent and terminated their employment with any Defendant.

15 24. At all material times, Plaintiff was a member of the Class and Sub-Classes.

16 25. Plaintiff undertakes this concerted activity to improve the wages and working
17 conditions of all Class Members.

18 26. There is a well-defined community of interest in the litigation and the Class are
19 Sub-Classes readily ascertainable:

20 (a) **Numerosity:** The members of the Class and each Sub-Class are so
21 numerous that joinder of all members would be unfeasible and impractical.
22 The membership of the entire Class and Sub-Classes is unknown to
23 Plaintiff at this time, however, the Class and each Sub-Class is estimated to
24 be greater than 100 individuals and the identity of such membership is
25 readily ascertainable by inspection of Defendants' records.

26 (b) **Typicality:** Plaintiff is qualified to, and will, fairly and adequately protect
27 the interests of each Class Member with whom there is a shared, well-
28 defined community of interest, and Plaintiff's claims (or defenses, if any)
 are typical of all Class Members' claims as demonstrated herein.

 (c) **Adequacy:** Plaintiff is qualified to, and will, fairly and adequately protect
 the interests of each Class Member with whom there is a shared, well-

1 defined community of interest and typicality of claims, as demonstrated
2 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
3 Member. Plaintiff's attorneys, the proposed class counsel, are versed in
4 the rules governing class action discovery, certification, and settlement.
5 Plaintiff has incurred, and throughout the duration of this action, will
6 continue to incur costs and attorneys' fees that have been, are, and will be
7 necessarily expended for the prosecution of this action for the substantial
8 benefit of each class member.

9 (d) Superiority: A Class Action is superior to other available methods for the
10 fair and efficient adjudication of the controversy, including consideration
11 of:

- 12 1) The interests of the members of the Class and Sub-Classes in
13 individually controlling the prosecution or defense of separate
14 actions;
- 15 2) The extent and nature of any litigation concerning the controversy
16 already commenced by or against members of the Class and Sub-
17 Classes;
- 18 3) The desirability or undesirability of concentrating the litigation of
19 the claims in the particular forum; and
- 20 4) The difficulties likely to be encountered in the management of a
21 class action.

22 (e) Public Policy Considerations: The public policy of the State of California
23 is to resolve the California Labor Code claims of many employees through
24 a class action. Indeed, current employees are often afraid to assert their
25 rights out of fear of direct or indirect retaliation. Former employees are
26 also fearful of bringing actions because they believe their former
27 employers might damage their future endeavors through negative
28 references and/or other means. Class actions provide the class members

1 who are not named in the complaint with a type of anonymity that allows
2 for the vindication of their rights at the same time as their privacy is
3 protected.

4 27. There are common questions of law and fact as to the Class (and each subclass, if
5 any) that predominate over questions affecting only individual members, including without
6 limitation, whether, as alleged herein, Defendants have:

- 7 (a) Failed to pay Class Members the correct amount of overtime wages;
- 8 (b) Failed to provide meal periods and pay correct meal period premium wages
9 to Class Members;
- 10 (c) Failed to authorize and permit rest periods and pay rest period premium
11 wages to Class Members;
- 12 (d) Failed to promptly pay all wages due to Class Members upon their
13 discharge or resignation;
- 14 (e) Failed to provide Class Members with accurate wages statements; and
- 15 (f) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
16 result of their illegal conduct as described above.

17 28. This Court should permit this action to be maintained as a class action pursuant to
18 California Code of Civil Procedure § 382 because:

- 19 (a) The questions of law and fact common to the Class predominate over any
20 question affecting only individual members;
- 21 (b) A class action is superior to any other available method for the fair and
22 efficient adjudication of the claims of the members of the Class;
- 23 (c) The members of the Class are so numerous that it is impractical to bring all
24 members of the class before the Court;
- 25 (d) Plaintiff, and the other members of the Class, will not be able to obtain
26 effective and economic legal redress unless the action is maintained as a
27 class action;
- 28 (e) There is a community of interest in obtaining appropriate legal and

equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class and each Sub-Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

- 1) Inconsistent or varying adjudications with respect to individual members of the Class and each Sub-Class which would establish incompatible standards of conduct for Defendants; and/or
- 2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Class and each Sub-Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

29. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class and each Sub-Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

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FIRST CAUSE OF ACTION

(Against all Defendants for Failure to Pay Overtime Wages)

30. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 19 in this Complaint.

31. California Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

32. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

33. At all times relevant hereto, Plaintiff and the Class have worked more than eight hours in a workday and/or more than 40 hours in a workweek as employees of Defendants.

34. At all times relevant hereto, Defendants failed to pay Plaintiff and the Class overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code § 510 and 1198. Plaintiff and the Class are regularly required to work overtime hours.

35. By virtue of Defendants' unlawful failure to pay additional premium rate compensation to the Plaintiff and the Class for their overtime hours worked, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts which are presently unknown to them but which exceed the jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

36. Plaintiff and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes.

1 37. California Labor Code § 204 requires employers to provide employees with all
2 wages due and payable twice a month. The Wage Orders also provide that every employer shall
3 pay to each employee, on the established payday for the period involved, overtime wages for all
4 overtime hours worked in the payroll period. Defendants failed to provide Plaintiff and the Class
5 with all compensation due, in violation of California Labor Code § 204.

6 **SECOND CAUSE OF ACTION**

7 **(Against All Defendants for Failure to Provide Meal Periods)**

8 38. Plaintiff incorporates by reference and re-alleges as if fully stated herein
9 paragraphs 1 through 19 in this Complaint.

10 39. Under California law, Defendants have an affirmative obligation to relieve the
11 Plaintiff and the Class of all duty in order to take their first daily meal periods no later than the
12 start of Plaintiff and the Class' sixth hour of work in a workday, and to take their second meal
13 periods no later than the start of the eleventh hour of work in the workday. Section 512 of the
14 California Labor Code, and Section 11 of the applicable Wage Orders require that an employer
15 provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a
16 violation of Section 226.7 of the California Labor Code for an employer to require any employee
17 to work during any meal period mandated under any Wage Order.

18 40. Despite these legal requirements, Defendants regularly failed to provide Plaintiff
19 and the Class with both meal periods as required by California law. By their failure to permit
20 and authorize Plaintiff and the Class to take all meal periods as alleged above (or due to the fact
21 that Defendants made it impossible or impracticable to take these uninterrupted meal periods),
22 Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and
23 the applicable Wage Orders.

24 41. Under California law, Plaintiff and the Class are entitled to be paid one hour of
25 additional wages for each workday he or she was not provided with all required meal period(s),
26 plus interest thereon.

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THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Authorize and Permit Rest Periods)

42. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 19 in this Complaint.

43. Defendants are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that the employer permit and authorize all employees to take paid rest periods of 10 minutes each for each 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws. It is a violation of Section 226.7 of the California Labor Code for an employer to require any employee to work during any rest period mandated under any Wage Order.

44. Despite these legal requirements, Defendants failed to authorize Plaintiff and the Class to take rest breaks, regardless of whether employees worked more than 4 hours in a workday. By their failure to permit and authorize Plaintiff and the Class to take rest periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted rest periods), Defendants willfully violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage Orders.

45. Under California law, Plaintiff and the Class are entitled to be paid one hour of premium wages rate for each workday he or she was not provided with all required rest break(s), plus interest thereon.

FOURTH CAUSE OF ACTION

(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

46. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 19 in this Complaint.

1 47. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
2 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
3 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
4 his or her wages shall become due and payable not later than seventy-two (72) hours thereafter,
5 unless the employee has given seventy-two (72) hours previous notice of his or her intention to
6 quit, in which case the employee is entitled to his or her wages at the time of quitting.

7 48. Within the applicable statute of limitations, the employment of Plaintiff and many
8 other members of the Class ended, i.e. was terminated by quitting or discharge, and the
9 employment of others will be. However, during the relevant time period, Defendants failed, and
10 continue to fail to pay terminated Class Members, without abatement, all wages required to be
11 paid by California Labor Code sections 201 and 202 either at the time of discharge, or within
12 seventy-two (72) hours of their leaving Defendants' employ.

13 49. Defendants' failure to pay Plaintiff and those Class members who are no longer
14 employed by Defendants their wages earned and unpaid at the time of discharge, or within
15 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
16 Code §§ 201 and 202.

17 50. California Labor Code § 203 provides that if an employer willfully fails to pay
18 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
19 continue as a penalty wage from the due date, and at the same rate until paid or until an action is
20 commenced; but the wages shall not continue for more than thirty (30) days.

21 51. Plaintiff and the Class are entitled to recover from Defendants their additionally
22 accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days
23 maximum pursuant to California Labor Code § 203.

24 52. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff and the
25 Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs
26 incurred in this action.

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FIFTH CAUSE OF ACTION

**(Against all Defendants for Failure to Provide and Maintain Accurate and
Compliant Wage Records)**

53. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1 through 19 in this Complaint.

54. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

55. Defendants have intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiff and the Class, and the failure to list the true net wages earned.

56. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff and the Class have suffered injury and damage to their statutorily-protected rights.

57. Specifically, Plaintiff and the members of the Class have been injured by Defendants' intentional violation of California Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code § 226(a).

58. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as

1 a result of having to bring this action to attempt to obtain correct wage information following
2 Defendants' refusal to comply with many of the mandates of California's Labor Code and related
3 laws and regulations.

4 59. Plaintiff and the Class are entitled to recover from Defendants the greater of their
5 actual damages caused by Defendants' failure to comply with California Labor Code § 226(a), or
6 an aggregate penalty not exceeding four thousand dollars per employee.

7 60. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of
8 attorney's fees and costs to ensure compliance with this section, pursuant to California Labor
9 Code § 226(h).

10 SIXTH CAUSE OF ACTION

11 (Against all Defendants for Violation of California Business & Professions Code §§ 17200,
12 et seq.)

13 61. Plaintiff incorporates by reference and re-alleges as if fully stated herein
14 paragraphs 1 through 19 in this Complaint.

15 62. Defendants, and each of them, are "persons" as defined under California Business
16 & Professions Code § 17201.

17 63. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
18 unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff
19 seeks to enforce important rights affecting the public interest within the meaning of Code of Civil
20 Procedure § 1021.5.

21 64. Defendants' activities, as alleged herein, are violations of California law, and
22 constitute unlawful business acts and practices in violation of California Business & Professions
23 Code §§ 17200, *et seq.*

24 65. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
25 predicated on the violation of any state or federal law. All of the acts described herein as
26 violations of, among other things, the California Labor Code, are unlawful and in violation of
27 public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous,
28 and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of

1 California Business & Professions Code §§ 17200, *et seq.*

2 **Failure to Pay Overtime Wages**

3 66. Defendants' failure to pay overtime compensation and other benefits in violation
4 of California Labor Code §§ 510, 1194, and 1198, constitutes unlawful and/or unfair activity
5 prohibited by California Business & Professions Code §§ 17200, *et seq.*

6 **Failure to Provide Meal Periods**

7 67. Defendants' failure to provide meal periods and pay meal period premium wages
8 correctly in accordance with California Labor Code §§ 226.7 and 512, and the IWC Wage
9 Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by California
10 Business & Professions Code §§ 17200, *et seq.*

11 **Failure to Authorize and Permit Rest Periods**

12 68. Defendants' failure to authorize and permit rest periods in accordance with
13 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
14 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

15 69. By and through their unfair, unlawful and/or fraudulent business practices
16 described herein, the Defendants, have obtained valuable property, money and services from
17 Plaintiff, and all persons similarly situated, and have deprived Plaintiff, and all persons similarly
18 situated, of valuable rights and benefits guaranteed by law, all to their detriment.

19 70. Plaintiff and the Class Members suffered monetary injury as a direct result of
20 Defendants' wrongful conduct.

21 71. Plaintiff, individually, and on behalf of members of the putative Class, is entitled
22 to, and do, seek such relief as may be necessary to disgorge money and/or property which the
23 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by
24 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and
25 the Class are not obligated to establish individual knowledge of the wrongful practices of
26 Defendants in order to recover restitution.

27 72. Plaintiff, individually, and on behalf of members of the putative class, is further
28 entitled to and does seek a declaration that the above described business practices are unfair,

1 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
 2 from engaging in any of the above-described unfair, unlawful and/or fraudulent business
 3 practices in the future.

4 73. Plaintiff, individually, and on behalf of members of the putative class, has no
 5 plain, speedy, and/or adequate remedy at law to redress the injuries which the Class Members
 6 suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent business
 7 practices. As a result of the unfair, unlawful and/or fraudulent business practices described
 8 above, Plaintiff, individually, and on behalf of members of the putative Class, has suffered and
 9 will continue to suffer irreparable harm unless the Defendants, and each of them, are restrained
 10 from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

11 74. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth
 12 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
 13 withholdings.

14 75. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff
 15 and putative Class Members are entitled to restitution of the wages withheld and retained by
 16 Defendants during a period that commences four years prior to the filing of this complaint; a
 17 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
 18 Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure §
 19 1021.5 and other applicable laws; and an award of costs.

20 PRAYER FOR RELIEF

21 Plaintiff, individually, and on behalf of all others similarly situated only with respect to
 22 the class claims, prays for relief and judgment against Defendants, jointly and severally, as
 23 follows:

24 Class Certification

- 25 1. That this action be certified as a class action with respect to the First, Second,
 26 Third, Fourth, Fifth, and Sixth Causes of Action;
- 27 2. That Plaintiff be appointed as the representative of the Class; and
- 28 3. That counsel for Plaintiff be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due;

5. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

6. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

7. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and,

8. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

9. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

10. For unpaid meal period premium wages as may be appropriate;

11. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

12. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

13. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

14. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

15. For unpaid rest period premium wages as may be appropriate;

16. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

17. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5, and for costs of suit incurred herein; and

1 18. For such other and further relief as the Court may deem equitable and appropriate.

2 As to the Fourth Cause of Action

3 19. That the Court declare, adjudge and decree that Defendants violated California
4 Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
5 termination of the employment;

6 20. For all actual, consequential and incidental losses and damages, according to
7 proof;

8 21. For statutory wage penalties pursuant to California Labor Code § 203 for former
9 employees who have left Defendants' employ;

10 22. For pre-judgment interest on any unpaid wages from the date such amounts were
11 due;

12 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

13 24. For such other and further relief as the Court may deem equitable and appropriate.

14 As to the Fifth Cause of Action

15 25. That the Court declare, adjudge and decree that Defendants violated the record
16 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and
17 willfully failed to provide accurate itemized wage statements thereto;

18 26. For all actual, consequential and incidental losses and damages, according to
19 proof;

20 27. For statutory penalties pursuant to California Labor Code § 226(e);

21 28. For injunctive relief to ensure compliance with this section, pursuant to California
22 Labor Code § 226(h);

23 29. For reasonable attorneys' fees and for costs of suit incurred herein; and

24 30. For such other and further relief as the Court may deem equitable and appropriate.

25 As to the Sixth Cause of Action

26 31. That the Court declare, adjudge and decree that Defendants violated California
27 Business & Professions Code §§ 17200, *et seq.* by failing to pay overtime wages correctly,
28

1 failing to provide meal periods and pay the correct amount of meal period premium wages, and
2 failing to authorize and permit rest periods;

3 32. For restitution of unpaid wages to Plaintiff and all Class Members and
4 prejudgment interest from the day such amounts were due and payable;

5 33. For the appointment of a receiver to receive, manage and distribute any and all
6 funds disgorged from Defendants and determined to have been wrongfully acquired by
7 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

8 34. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
9 California Code of Civil Procedure § 1021.5;

10 35. For injunctive relief to ensure compliance with this section, pursuant to California
11 Business & Professions Code §§ 17200, *et seq.*; and,

12 36. For such other and further relief as the Court may deem equitable and appropriate.

13 As to all Causes of Action

14 37. For any additional relief that the Court deems just and proper.

15 Dated: February 14, 2018

Respectfully submitted,

16 MOON & YANG, APC

17 By: 
18 Kane Moon

19 Justin F. Marquez
Attorneys for Plaintiff Irma Frausto

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff demands a trial by jury as to all causes of action triable by jury.

22 Dated: February 14, 2018

MOON & YANG, APC

23 By: 
24 Kane Moon

25 Justin F. Marquez
26 Attorneys for Plaintiff Irma Frausto
27
28

EXHIBIT C

FEB/22/2018/THU 12:42 PM

FAX No.

P. 027

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
MOON & YANG, APC
 1055 W. Seventh St., Suite 1880
 Los Angeles, California 90017
 TELEPHONE NO.: (213) 232-3128 FAX NO.: (213) 232-3125
 ATTORNEY FOR (Party): Plaintiff Imma Frausto
 SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda
 STREET ADDRESS: 1225 Fallon St.
 MAILING ADDRESS: 1225 Fallon St.
 CITY AND ZIP CODE: Oakland, CA 94612
 BRANCH NAME: Rene C. Davidson Alameda County Courthouse
 CASE NAME:
Imma Frausto v. Bank of America, National Association

FILED BY FAX
ALAMEDA COUNTY
 February 22, 2018
 CLERK OF
 THE SUPERIOR COURT
 By Alicia Espinoza, Deputy
 CASE NUMBER:
RG18894308

CIVIL CASE COVER SHEET
☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
☐ Counter ☐ Joinder
 Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 27).

1. Check one box below for the case type that best describes this case:

Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)
Other PUPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PUPD/WD (23)
Non-PUPD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (26)
☐ Other non-PUPD/WD tort (35)
Employment
☐ Wrongful termination (38)
☒ Other employment (15)

Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)
Real Property
☐ Eminent domain/inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)
Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)
Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
 (Cal. Rules of Court, rules 3.400-3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
☐ Enforcement of judgment (20)
Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)
Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
 b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☒ Substantial amount of documentary evidence f. ☒ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 6; Failure to Pay Overtime Wages, Failure to Provide Meal Periods, etc.

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-019)

Date: February 14, 2018

Justin F. Marquez

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rules.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in Item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>)	Breach of Rental/Lease	Construction Defect (10)
	Contract (<i>not unlawful detainer or wrongful eviction</i>)	Claims Involving Mass Tort (40)
	Contract/Warranty Breach—Seller	Securities Litigation (28)
	Plaintiff (<i>not fraud or negligence</i>)	Environmental/Toxic Tort (30)
	Negligent Breach of Contract/Warranty	Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41)
Other P/PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Other Breach of Contract/Warranty	Enforcement of Judgment
Asbestos (04)	Collections (e.g., money owed, open book accounts) (09)	Enforcement of Judgment (20)
Asbestos Property Damage	Collection Case—Seller Plaintiff	Abstract of Judgment (Out of County)
Asbestos Personal Injury/Wrongful Death	Other Promissory Note/Collections Case	Confession of Judgment (<i>non-domestic relations</i>)
Product Liability (<i>not asbestos or toxic/environmental</i>) (24)	Insurance Coverage (<i>not provisionally complex</i>) (18)	Sister State Judgment
Medical Malpractice (45)	Auto Subrogation	Administrative Agency Award (<i>not unpaid taxes</i>)
Medical Malpractice—Physicians & Surgeons	Other Coverage	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Professional Health Care Malpractice	Other Contract (37)	Other Enforcement of Judgment Case
Other P/PI/PD/WD (23)	Contractual Fraud	Miscellaneous Civil Complaint
Premises Liability (e.g., slip and fall)	Other Contract Dispute	RICO (27)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Real Property	Other Complaint (<i>not specified above</i>) (42)
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Declaratory Relief Only
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	Injunctive Relief Only (<i>non-harassment</i>)
Other P/PI/PD/WD	Other Real Property (e.g., quiet title) (26)	Mechanics Lien
Non-P/PI/PD/WD (Other) Tort	Writ of Possession of Real Property	Other Commercial Complaint Case (<i>non-tort/non-complex</i>)
Business Tort/Unfair Business Practice (07)	Mortgage Foreclosure	Other Civil Complaint (<i>non-tort/non-complex</i>)
Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08)	Quiet Title	Miscellaneous Civil Petition
Defamation (e.g., slander, libel) (13)	Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>)	Partnership and Corporate Governance (21)
Fraud (16)	Unlawful Detainer	Other Petition (<i>not specified above</i>) (43)
Intellectual Property (19)	Commercial (31)	Civil Harassment
Professional Negligence (25)	Residential (32)	Workplace Violence
Legal Malpractice	Drugs (38) (<i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>)	Minor/Dependent Adult Abuse
Other Professional Malpractice (<i>not medical or legal</i>)	Judicial Review	Election Contest
Other Non-P/PI/PD/WD Tort (35)	Asset Forfeiture (05)	Petition for Name Change
Employment	Petition Re: Arbitration Award (11)	Petition for Relief From Late Claim
Wrongful Termination (36)	Writ of Mandate (02)	Other Civil Petition
Other Employment (15)	Writ—Administrative Mandamus	
	Writ—Mandamus on Limited Court Case Matter	
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor	
	Commissioner Appeals	

CIVIL CASE COVER SHEET

EXHIBIT D

Kane Moon (SBN 249834)
kane.moon@moonyanglaw.com
Justin F. Marquez (SBN 262417)
justin.marquez@moonyanglaw.com
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
Attorneys for Plaintiff Irma Frausto

MAR 15 2018

US Mail

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA – RENE C. DAVIDSON COURTHOUSE**

IRMA FRAUSTO, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

BANK OF AMERICA, NATIONAL
ASSOCIATION, a business entity, form
unknown; and DOES 1 through 10, inclusive,

Defendants

Case No.: RG18894308

CLASS ACTION

[Hon. Brad Seligman, Dept. 23]

NOTICE OF HEARINGS

Complex Determination Hearing

Date: April 10, 2018

Time: 3:00 p.m.

Dept.: 23

Case Management Conference

Date: May 15, 2018

Time: 3:00 p.m.

Dept.: 23

Complaint filed: February 22, 2018

Trial date: Not set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

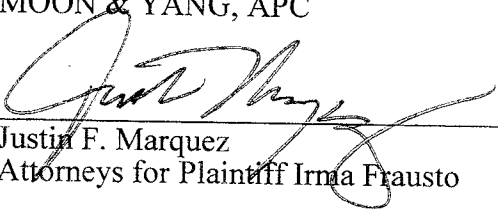
PLEASE TAKE NOTICE that the above-entitled Court, located at 1225 Fallon St.,
Oakland, California, 94612, has entered a Minute Order scheduling a Complex Determination
Hearing on April 10, 2018 at 3:00 p.m. in Department 23, and scheduling a Case Management
Conference on May 15, 2018 at 3:00 p.m. in Department 23. A true and correct copy of the
Court's Minute Order is attached hereto.

1 Dated: March 8, 2018

Respectfully submitted,

2 MOON & YANG, APC

3
4 By:


Justin F. Marquez

Attorneys for Plaintiff Irma Frausto

Failure to appear, comply with local rules or provide a Case Management Conference statement may result in sanctions. Case Management Statements may be filed by E-Delivery, by submitting directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to **Direct Calendar Departments** at

<http://apps.alameda.courts.ca.gov/domainweb>.

All motions in this matter to be heard prior to Complex Litigation Determination Hearing must be scheduled for hearing in Department 23.

If the information contained in this notice requires change or clarification, please contact the courtroom clerk for Department 23 by e-mail at Dept.23@alameda.courts.ca.gov or by phone at (510) 267-6939.

TELEPHONIC COURT APPEARANCES at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties can make arrangements by calling (888) 882-6878, or faxing a service request form to (888) 883-2946. This service is subject to charges by the vendor.

Dated: 02/26/2018

Chad Finke Executive Officer / Clerk of the Superior Court

By

 digital

Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 02/27/2018.

By

 digital

Deputy Clerk

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

)
) ss
)

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 1055 W. Seventh St., Suite 1880, Los Angeles, CA 90017. On **March 8, 2018**, I served the foregoing document described as:

NOTICE OF HEARINGS

X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Bank of America, National Association
150 N. College St., NC1-028-17-06
Charlotte, NC 28255

☒ **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL DELIVERY:** I delivered said document(s) to the office of the addressee shown above under whom it says delivered by personal delivery.

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **March 8, 2018** at Los Angeles, California.

Sandra Garcia
Type or Print Name

Sandra Garcia
Signature

EXHIBIT E

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NO.	FO
KANE MOON (SBN:249834) 1055 West Seventh St., Suite 1880			
LOS ANGELES CA 90017			
ATTORNEY FOR (Name) Plaintiff			
Insert of Court Name of Judicial District and Branch Court if any			
ALAMEDA COUNTY SUPERIOR COURT, OAKLAND			
SHORT TITLE OF CASE			
FRAUSTO v BANK OF AMERICA			
3302593	(HEARING) Date	Time	Dept
		Case Number	RG18894308
		REFERENCE NO.	FRAUSTO v BANK OF AMERICA



**FILED
ALAMEDA COUNTY**

MAR 14 2018

CLERK OF THE SUPERIOR COURT

PROOF OF SERVICE OF SUMMONS

1. AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION

2. I SERVED COPIES OF THE:
SUMMONS & COMPLAINT
CIVIL CASE COVER SHEET

3. a. PARTY SERVED: BANK OF AMERICA, NATIONAL ASSOCIATION, A BUSINESS

ENTITY FORM

C/O CT CORPORATION, AGENT FOR SERVICE OF PROCESS

b. PERSON SERVED: GABRIELA SANCHEZ, AUTHORIZED TO RECEIVE
HISPANIC FEMALE 26YRS 5'04" 160LBS. BLACK HAIR, BLACK EYES

4. c. ADDRESS: 818 W 7TH ST STE 930
LOS ANGELES CA 90017

5. I SERVED THE PARTY NAMED IN ITEM 3a

a. BY PERSONALLY DELIVERING THE COPIES
ON 3/2/2018 AT 3:00:00 PM

6. THE "NOTICE TO PERSON SERVED" WAS COMPLETED AS FOLLOWS:

d. ON BEHALF OF:

BANK OF AMERICA, NATIONAL ASSOCIATION, A BUSINESS

ENTITY FORM

C/O CT CORPORATION, AGENT FOR SERVICE OF PROCESS

UNDER THE FOLLOWING CODE OF CIVIL PROCEDURE SECTION : BUSINESS ORGANIZATION, FORM
UNKNOWN CCP 415.95

d. The fee for service was \$57.42

e. I am:

(1) not a registered California process server:

(3) X registered California process server:

(i) Independent Contractor

(i) Registration No: 3428

(i) County: LOS ANGELES

7a. Person Serving: V. Enrique Mendez

b. DDS Legal Support
2900 Bristol St
Costa Mesa, Ca 92626

c. (714) 662-5555

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. V. Enrique Mendez

3/13/2018

X

SIGNATURE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NO.	FOR COURT USE ONLY
KANE MOON (SBN:249834) 1055 West Seventh St., Suite 1880 LOS ANGELES CA 90017			
ATTORNEY FOR (Name) Plaintiff			
Insert of Court Name of Judicial District and Branch Court if any			
ALAMEDA COUNTY SUPERIOR COURT, OAKLAND			
SHORT TITLE OF CASE			
FRAUSTO v BANK OF AMERICA			
3302593	(HEARING) Date	Time	Dept
			Case Number: RG18894308
			REFERENCE NO. FRAUSTO v BANK OF AMERICA

PROOF OF SERVICE BY MAIL

1. I AM EMPLOYED IN, OR A RESIDENT OF, THE COUNTY IN WHICH THE MAILING OCCURED, AND NOT A PARTY TO THIS ACTION. AT THE TIME OF MAILING, I WAS AT LEAST 18 YEARS OF AGE OR OLDER

ON 03/03/2018

2. I MAILED THE WITHIN:

SUMMONS & COMPLAINT
CIVIL CASE COVER SHEET

ON THE DEFENDANT IN SAID ACTION BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON PREPAID FOR FIRST CLASS IN THE UNITED STATES MAIL AT: COSTA MESA, CALIFORNIA, ADDRESSED AS FOLLOWS:

BANK OF AMERICA, NATIONAL ASSOCIATION, A BUSINESS

ENTITY FORM
C/O CT CORPORATION, AGENT FOR SERVICE OF PROCESS
818 W 7TH ST STE 930
LOS ANGELES CA 90017

DECLARANT: MONICA FIGUEROA

d. The fee for service was \$57.42

e. I am:

(1) X not a registered California process server.

(3) registered California process server:

(i) Independent Contractor

(i) Registration No:

(i) County:

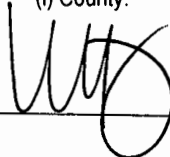
b. DDS Legal Support
2900 Bristol St
Costa Mesa, Ca 92626

c. (714) 662-5555

8. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. MONICA FIGUEROA

3/13/2018

x



SIGNATURE

PROOF OF SERVICE